IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 20TH NOVEMBER 2006 / 29TH KARTHIKA 1928

WP(C).No. 16875 of 2006(H)

PETITIONER:

PHILIP VADAKKEKALAM, S/OPHILIP,
AGED 67 YEARS, BEACH WARD, ALAPPUZHA.

BY ADV. SMT.T.D.RAJALAKSHMI
SRI.E.R.VENKATESWARAN

RESPONDENTS:

---

1. ENVIRONMENTAL ENGINEER,
KERALA STATE POLLUTION CONTROL BOARD,
THODANKULANGARA, THATHAMPALLY POST,
ALAPPUZHA 688 013.

2. THE MANAGING DIRECTOR,
FOAM MATTINGS INDIA LIMITED, ALAPPUZHA.

BY ADV. SRI.C.C.ABRAHAM SC POLLUTION CONTROL BOARD
SRI.M.PATHROSE MATTHAI (SR.)
SRI.RONY J.PALLATH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

Ext.P1: Photocopy of complaint dated 21-6-2002 filed before the 2nd respondent.

Ext.P2: Photocopy of letter dated 7-8-2004 sent by the 1st respondent.

Ext.P3: Photocopy of the notice dated 10-3-2005 issued by the petitioner to the 2nd respondent.

Ext.P4: Photocopy of the petition filed before the Hon'ble Minister for Co-op., Coir and Devaswom dated 23-6-2006.

Ext.P5: Photocopy of the letter dated 22-12-1999 issued by the Dept. of Tourism, Govt. of Kerala.

Ext.P6: A plan prepared in respect of the locality of the respondent factory and the petitioner's residential house.

Ext.P7: Photocopy of the letter dated 25-10-2006 produced before the Municipal Information Officer, Alappuzha.

Ext.P7(a): Photocopy of receipt dated 25-10-2006 issued by the Alappuzha Municipality.

Ext.P8: Photocopy of the representation dated 25-10-2006 filed before the District Town Planner Officer, Alappuzha.

RESPONDENT'S EXHIBITS:

Ext.R1(a): True copy of the complaint filed by petitioner on 27-5-2004.

Ext.R1(b) & (c): True copy of the letters No.PCB/ALPA/CG-57/04 both dated 7-8-2004.

Ext.R1(d): True copy of the letter No.PCB/ALPA/CG-57/04 dated 7-8-2004 issued by the 1st respondent to the petitioner.

Ext.R1(e): True copy of the letter No.FMIL/GEN-70/VOL IV dated 23-8-204 issued by M/S Foam Mattings (India) Ltd. To the 1st respondent.

Ext.R1(f): True copy of the vide letter No.PCB/ALPA/CG-57/2004 dated 3-1-2005.

Ext.R1(g): True copy of the reply dated 10-2-2005 to the 1st respondent.

Ext.R2(a): True copy of certificate issued by the Enviro Designs and Equipments, issued by the approved Library by Kerala State Pollution Control Board, dated 17-4-2001.

Ext.R2(b): True copy of report of the Envirochem Laboratories Private Limited, dated 29-1-2005.

Ext.R2(c): True copy of report of the Environmental Solutions, dated 2-7-2005.

Ext.R2(d): True copy of report of Integrated Environmental Services, an approved agency of the Kerala State Pollution Control Board, dated 5-8-2006.

Ext.R2(e): True photocopy of plane submitted before the Alleppy Municipality.

Ext.R2(f): True copy of Certificate No.E7-15282/2006 dated 3-10-2006 issued by the Municipal Secretary to the 2nd respondent.

// True copy //

P.A. to Judge

Jes

C.N.RAMACHANDRAN NAIR, J.

- -

W.P.(C)NO.16875 OF 2006

- -

Dated this the 20th day of November 2006

JUDGMENT

Heard counsel for the petitioner, the Standing Counsel for Pollution Control Board and counsel appearing for the second respondent.

2. The grievance of the petitioner is that the second petitioner's factory is emitting sound in excess of permissible limits. Counsel for the first respondent submitted that if the factory is in Industrial area, sound pollution levels are within the permissible parameters. Second respondent has produced Ext.R2 (f) from the Municipality which shows that part of the land is in Industrial area and part of it is in residential area.

3. In the circumstances, it is for the first respondent to identify the location for the factory with reference to survey number and to ensure that pollution levels are within the parameters prescribed. If any remedial measures are suggested by the first respondent, then second respondent is bound to carry out the same. The first respondent is directed to take a decision within

six weeks from the date of production of a copy of the judgment by the petitioner. Second respondent will be informed about the inspection and will be heard in the matter before any adverse orders are issued against him.

Writ petition is disposed of with the above directions.

C.N.RAMACHANDRAN NAIR, JUDGE

jes